

*passed BOS
6-8-99*

**AMENDING MOBILEHOME SPACE RENT STABILIZATION
ORDINANCE**

The Board of Supervisors of the County of Contra Costa ordains as follows (omitting the parenthetical footnotes from the official text of the enacted or amended provisions of the County Ordinance Code):

SECTION I. SUMMARY. This ordinance amends Chapter 540-2 of the County Ordinance Code, on mobilehome space rent stabilization requirements. The amendments clarify and set forth requirements for mobilehome owners' petitions alleging a reduction in a park service without a concurrent decrease in space rent, including changing the statute of limitations on filing a service reduction petition from 60 days to 180 days, clarify matters involving capital improvement rent increases, and make other substantive and non-substantive amendments.

SECTION II. Section 540-2.204 of the County Ordinance Code is amended, by amending the definition of "capital improvements" to provide that road work, such as repair, resurfacing or slurry sealing, are not capital improvements, by amending the definition of "percent change in consumer price index" to provide that the percent change is determined from April to April, by changing "housing service" to "park service," and by placing the definitions in alphabetical order, to read:

540-2.204 Definitions. As used in this chapter, the following words and phrases shall have the meanings set forth herein unless it is apparent from the context that a different meaning is intended.

(a) **"Affected mobilehome owners"** means all mobilehome owners in a mobilehome park who have been notified by the park owner that a rent increase is to become effective on the same date, or who have been otherwise made aware, in the absence of such notification, that a rent increase (including a reduction in a park service) has or is to become effective on the same date.

(b) **"Base rent"** means the space rent charged and allowed by County ordinance on September 20, 1994, plus any rent increase allowed thereafter pursuant to this chapter unless otherwise provided. The base rent for any mobilehome space that was not occupied on September 20, 1994 shall be the highest space rent charged by the park owner for a comparable space in the park on September 20, 1994, plus any rent increases allowed thereafter pursuant to this chapter unless otherwise provided.

(c) **"Capital improvements"** means expenditures for anything new, not pre-existing.

(d) **"Consumer Price Index"** means the Consumer Price Index for all Urban Consumers, San Francisco-Oakland-San Jose Area (or, if the area designation is revised, for the area which encompasses the County of Contra Costa), published by the U.S. Department of Labor, Bureau of Labor Statistics.

(e) **"Hearing Officer"** means a person designated by the Rent Review Officer to hear a petition pursuant to this chapter who is neither a mobilehome owner nor who has an interest in a mobilehome park of a nature that would require disqualification under the provisions of the Political Reform Act if the person is an elected state official.

(f) **"Maintenance and repair"** means expenditures to keep the property in good working order.

(g) **"Mobilehome"** means a structure designed for human habitation and for being moved on a street or highway under permit pursuant to section 35790 of the Vehicle Code. "Mobilehome" includes manufactured home, as defined in the Health and Safety Code, but does not include a recreational vehicle, as defined in section 799.29 of the Civil Code, or a commercial coach, as defined in section 18001.8 of the Health and Safety Code, or factory-built housing as defined in section 19971 of the Health and Safety Code.

(h) **"Mobilehome owner"** means a person who has a tenancy in a mobilehome park under a rental agreement, having the right to the use of a mobilehome space on which to locate, maintain and occupy a mobilehome, site improvements, and accessory structures for human habitation, including the use of the services and facilities of the mobilehome park. "Mobilehome owner" does not include a person who is a resident in a mobilehome but who does not have a tenancy.

(i) **"Mobilehome park"** means any area or tract of land within the county where two or more mobilehome spaces are rented, or held out for rent, to accommodate mobilehomes.

(j) **"Mobilehome space"** means the site within a mobilehome park intended, designed, or used for the location or accommodation of a mobilehome and any accessory structures or appurtenances attached thereto or used in conjunction therewith. "Mobilehome space" does not include any newly constructed space initially held out for rent after January 1, 1990, or a space occupied by a recreational vehicle.

(k) **"Park Owner"** means a person or entity that owns or operates a mobilehome park business in the unincorporated territory of the County.

(l) **"Park service"** means a service provided by the park owner related to the use or occupancy of a mobilehome space, including but not limited to maintenance of the common area of the mobilehome park, for which the park owner expends money or

other quantifiable consideration. For purposes of this ordinance park services do not include intangibles or other benefits associated with living at the property for which the park owner does not expend money or other quantifiable consideration.

(m) **"Percent change in Consumer Price Index"** means the annual percent change in the Consumer Price Index, calculated to the nearest tenth, published for the month of April, issued in the month of May. In the event that an index is not published for the month of April that is issued in the month of May, the closest preceding month for which an index is published shall be used.

(n) **"Rental agreement"** means an agreement between the park owner and the mobilehome owner for the use and occupancy of a mobilehome space establishing the terms and conditions of mobilehome park tenancy. A lease is a rental agreement.

(o) **"Rent increase"** means any additional space rent demanded of or paid by a mobilehome owner for a mobilehome space, including any reduction in park services without a corresponding decrease in the amount demanded or paid for space rent.

(p) **"Rent Review Officer"** means the person or persons designated by the County Administrator to administer and enforce the provisions of this ordinance.

(q) **"Service reduction"** means any reduction in a park service below the level of service existing on or after September 20, 1994, which results in a cost savings to the park owner without a corresponding decrease in rent. The reduction or deferment of maintenance below the level existing on or after September 20, 1994 may constitute a service reduction. However, normal wear and tear of the common area and/or mobilehome space does not constitute a service reduction.

(r) **"Space rent"** means the money demanded and received by a park owner for the use or occupancy of a mobilehome space and the non-exclusive use of the common area facilities, but excluding separately billed utilities or reasonable charges for services actually rendered. Nothing in this chapter shall be deemed to regulate rent charged for mobilehomes, as opposed to mobilehome spaces.

(s) **"Substantial rehabilitation"** means that work done by a park owner to a mobilehome space, park services, or to the common area of the mobilehome park, exclusive of a capital improvement, the value of which exceeds two hundred dollars and which is performed either to secure compliance with any state or local law or to repair damage resulting from fire, earthquake, or other casualty or natural disaster, to the extent the cost of such work is not reimbursed by insurance, security deposit proceeds, or any other source.

(Ords. 99-24, § 2; 97- 8, § 2; 95-31.)

SECTION III. Section 540-2.206 is amended, by changing the reference to "housing service" to "park service," to read:

540-2.206 Applicability; exemptions. (a) The space rent increase limitation provisions of this chapter shall apply to all mobilehome spaces in mobilehome parks in the unincorporated area of this County not otherwise exempt from said requirements, either by this section, chapter, or any applicable State or federal law.

(b) **Exemptions.** The space rent increase limitation provisions of this chapter shall not apply to the following:

(1) Mobilehome spaces covered by rental agreements subject to Civil Code section 798.17(a) and (b), to newly constructed mobilehome spaces pursuant to Civil Code section 798.45, or to utilities billed separately pursuant to Civil Code section 798.41.

(2) Mobilehome spaces for which the space rent is less than \$350.00 per month, adjusted annually by 100 percent of the percent change in the Consumer Price Index.

(3) Mobilehome spaces in mobilehome parks in which the highest space rent charged is less than the median space rent charged for mobilehome spaces in comparable mobilehome parks upon the adoption by the Board of Supervisors of a program to determine median mobilehome space rents. A program to establish median mobilehome space rents shall provide for the establishment of median space rents for comparable mobilehome parks by resolution of the Board of Supervisors. The determination of the Board of Supervisors of median space rent in comparable mobilehome parks shall be subject to the reasonable discretion of the Board of Supervisors, taking into consideration at least the following: location of the park and park services provided by the park owner.

(Ords. 99-24, § 3; 95-31, § 2.)

SECTION IV. Section 540-2.410 is amended, by changing the reference to "housing service" to "park service," to read:

540-2.410 Major Rent Increases. An increase in the space rent payable for any mobilehome space within any twelve-month period more than the amounts permitted in sections 540-2.404, 540-2.406, 540-2.408 and/or a reduction in a park service(s) without a concurrent decrease in space rent shall be considered a major rent increase and is subject to the provisions set forth in articles 540-2.6 and 540-2.10 and other provisions of this chapter.

All major rent increases shall become a part of the base rent upon which future rent increases are based.

(Ords. 99-24, § 4; 95-31, § 2.)

SECTION V. Section 540-2.602 is amended, by changing the reference to "housing service" to "park service," to read:

540-2.602 Notice and Meeting. (a) **Notice of increase.** At least ninety (90) days before instituting a rent increase and/or decreasing a park service, a park owner shall give written notice of the proposed action, to all affected mobilehome owners. Said notice shall provide the following information:

(1) **Standard and/or administrative rent increase.** For rent increases pursuant to subsection (a) and/or (b) of sections 540-2.404 and/or 540-2.406, the amount of the rent increase both in dollars and as a percentage of existing space rent and either one or both of the following:

(A) A statement that the park owner considers the rent increase consistent with the standard rent increase limitations of section 540-2.404 and/or

(B) A statement that the proposed rent increase is to recover the cost of rent stabilization administration fees pursuant to section 540-2.406. The notice shall include information supporting the increase, including calculations used by the park owner to apportion the cost of the administrative fee among the affected mobilehome owners;

(2) **Reduction in park service.** For a reduction in a park service with or without a decrease in space rent, the specific park service or services to be reduced and the decrease in space rent to be effectuated, if any. The park owner shall also provide any explanation or justification for the proposed action;

(3) **Capital improvement increase.** For a capital improvement increase, the amount of the rent increase both in dollars and as a percentage of existing rent, the duration of the rent increase, facts explaining and supporting the increase, including calculations used to determine how the amount of the increase was determined and apportioned;

(4) **Major rent increase.** For a major rent increase other than a reduction in a park service without a concurrent decrease in space rent, the amount of the rent increase both in dollars and as a percentage of existing space rent and facts supporting the increase.

(b) **Notice of meeting.** Concurrently with providing notice of a rent increase as required in subdivision (a), above, or as soon thereafter as practicable, the park owner shall provide at least thirty (30) days' advance written notice of a meeting to discuss the rent increase, and to provide an opportunity for the affected mobilehome owners to ask questions of the park owner or the park owner's representative about the rent increase. The notice of the meeting shall include the time or times of the meeting, which time(s) shall be convenient for as many affected mobilehome owners as is reasonably practicable, and the exact location of the meeting, which shall be at the mobilehome park. The informal meeting, once begun, may be continued by the park owner to another date or time. The rent increase shall not become effective until forty-five (45) days after the commencement of the informal meeting.

(c) **Notice to Rent Review Officer and homeowners' representative.** The park owner shall serve a copy of the notice of rent increase and a list of the names and addresses of all persons receiving the notice upon the Rent Review Officer at least eighty-five (85) days before the effective date of the rent increase. The Rent Review Officer shall acknowledge the date of receipt of the notice and list of names in writing upon the request of the park owner. The park owner shall provide a copy of the names and addresses of all mobilehome owners receiving notice to the mobilehome owners' representative within five (5) days of the date of request therefor by the mobilehome owners' representative. Failure to provide a copy of the names and addresses of affected mobilehome owners shall not invalidate the rent increase, but the rent increase shall be delayed one day for each day after five days after the date of request, until the names and addresses of the affected mobilehome owners have been provided.

(d) **Manner of giving notice.** Notices of rent increases or of meetings required by this chapter shall be given personally to the affected mobilehome owner, deposited in the United States mail, postage prepaid, addressed to the homeowner at his or her site within the mobilehome park, or by other manner agreed upon in writing by and between the park owner and the affected mobilehome owner. Affixing a notice on the door or other part of a mobilehome shall not constitute valid delivery, and shall not constitute substantial compliance with the requirements of this section unless such manner of delivery is agreed to in writing by the affected mobilehome owner. (Ords. 99-24, § 5; 97-8, § 5; 95-31.)

SECTION VI. Section 540-2.604 is amended, by changing the reference to "housing service" to "park service," and to make other clarifying changes, to read:

540-2.604 Failure to comply. Any rent increase, other than a reduction in park service without a concurrent decrease in space rent, imposed by the park owner without providing notice that substantially complies with the requirements of section 540-2.602 or without holding a meeting required by section 540-2.602 shall be void and invalid, and such failure to comply by the park owner shall be a defense in any action brought by the park owner to recover possession of the mobilehome space or to collect any rent

increase that should have been covered by such notice and meeting. A rent increase shall not be considered to be in substantial compliance with the requirements of section 540-2.602 until at least all of the following requirements are met within the following time frames:

(a) The park owner has provided at least thirty (30) days' notice of any required informal meeting to all mobilehome owners affected by the proposed rent increase;

(b) At least forty-five (45) days have elapsed following the holding or commencement of the informal meeting to discuss the rent increase;

(c) At least ninety (90) days have elapsed since the provision of a notice of rent increase which contains all of the information required by section 540-2.602; and

(d) At least eighty-five (85) days have elapsed following the Rent Review Officer's receipt of the notice of rent increase and a complete list of the names and addresses of all of the mobilehome owners who received notice of the rent increase.
(Ords. 99-24, § 6; 97-8, § 6; 95-31.)

SECTION VII. Section 540-2.802 of the County Ordinance Code is amended, to delete the words "proposed by a park owner," modifying rent increases, to read:

540-2.802 Rent increases - Petition Required. Any rent increase, including a reduction in service without a concurrent decrease in space rent, may be reviewed pursuant to the provisions of this article.
(Ords. 99-24, § 7; 95-31, § 2.)

SECTION VIII Section 540-2.804 of the County Ordinance Code is amended, to set forth the contents of a reduction in service rent petition, to change the statute of limitations for challenging a service reduction rent increase from 60 days to 180 days, to change the reference to "housing service" to "park service," and to delete the special provision for challenging rent increases which took place before the effective date of chapter 540-2 because said special provision is now moot, to read:

540-2.804 Petition. (a) The Rent Review Officer shall review a rent increase upon the filing of a petition in the Office of the Clerk of the Board of Supervisors. The petition shall be signed by more than fifty percent (50%) of the mobilehome owners affected by the rent increase. For purposes of determining the sufficiency of the petition, only one homeowner per occupied space shall be counted. The petition shall designate the name and address of the mobilehome owners' representative, the name and address of the mobilehome park, and the name and address of the park owner and the park owner's representative if known to the homeowners.

(b) The petition shall include a brief summary of the amount of the disputed space rent increase. For a reduction in service without a concurrent decrease in space

rent petition filed by mobilehome owners, the petition shall describe the service that has been reduced, the date the reduction in service was discovered, and the claimed amount that the space rent should be decreased on account of the service reduction.

(c) Subject to section 540-2.604, the petition shall be filed no later than thirty (30) days after the effective date of the rent increase, except that for a reduction in a park service without a concurrent decrease in space rent for which notice and a meeting was not provided, a petition may be filed no later than one hundred and eighty (180) days after discovery of the alleged rent increase.

(d) The petition shall be accompanied by any filing fee imposed by the Board of Supervisors to defray the cost to the County of processing the petition and conducting the major rent increase review.

(e) Upon the filing of the petition, the Clerk of the Board of Supervisors will forthwith forward the petition to the Rent Review Officer.
(Ords. 99-24, § 8; 97-8, § 7; 95-31.)

SECTION IX. Section 540-2.810 of the County Ordinance Code is amended, to set forth what information is required to be submitted in advance of a hearing on a reduction in service rent petition, and to make other clarifying amendments, to read:

540-2.810 Hearing, requirements. (a) If no satisfactory resolution of the dispute is reached within 40 days of petition verification, or such longer period of time as the parties may agree, the Rent Review Officer shall appoint a Hearing Officer who shall schedule a hearing on the disputed rent increase. The hearing shall be on a date no sooner than 30 days, nor later than 60 days from the termination of the mediation efforts. The Rent Review Officer shall provide mailed notice, first class mail postage prepaid, to the park owner and the mobilehome owners' representative. The notice shall inform the parties of the date, time and location of the hearing, and that the park owner and/or the mobilehome owners' representative shall file with the Hearing Officer, two sets of any information necessary to review the rent increase, including any information requested by the Hearing Officer.

(b) For major rent increases sought by the park owner, the park owner shall submit the information required by section 540-2.1002.

(c) For a reduction in a park service proposed by the park owner, the park owner shall submit information to support the proposed reduction in the park service without a concurrent decrease in space rent.

(d) For a reduction in a park service without a concurrent rent decrease petition filed by the mobilehome owners, the mobilehome owners shall submit the information required by section 540-2.1008.

(e) For capital improvement rent increases, the park owner shall submit the information required by section 540-2.1204 and 540-2.1206.

(f) The information required by subdivisions (b) through (e) shall be provided no later than ten days before the hearing, one set to be provided to the other party's representative by the Rent Review Officer. If a party is unable to provide the information in a timely manner, the Hearing Officer shall grant a continuance for a period no longer than ten days after the two sets of the required information has been submitted.

(Ords. 99-24, § 9; 95-31, § 2.)

SECTION X. Section 540-2.814 of the County Ordinance Code is amended, by amending subdivision (b) to provide for additional continuances at the request of the mobilehome owners' representative in hearings on petitions filed by mobilehome owners alleging a reduction in service without a concurrent rent decrease, and to make other clarifying amendments, including changing references to "housing service" to "park service," to read:

540-2.814 Hearings. (a) General. Hearings to review a rent increases shall be conducted pursuant to the procedures prescribed in this section.

(b) Conduct of Hearing. The park owner and affected mobilehome owners may appear at the hearing and offer oral and documentary evidence. The Hearing Officer shall have such authority and may make such orders as necessary to assure that the hearing is conducted in a timely manner and a decision rendered within the time limits set forth in this section. The Hearing Officer shall exercise discretion in the determination of facts. The Hearing Officer need not require that formal rules of evidence be observed, provided that constitutional rights for a fair hearing are protected. The Hearing Officer may grant not more than two continuances of the hearing for not more than ten (10) working days each, except that the Hearing Officer may grant additional continuances upon the park owner's request provided the homeowners' representative is provided a reasonable amount of time to review any additional evidence submitted by the park owner. For a hearing on a petition filed by mobilehome owners seeking a rent decrease on account of an alleged park service reduction without a concurrent decrease in space rent, the hearing officer may grant additional continuances upon the mobilehome owners' representative's request provided the park owner's representative is provided a reasonable amount of time to review any additional evidence submitted by the mobilehome owners' representative.

(c) Representation of Parties. The parties in a hearing are entitled to be represented by a person or persons of the party's choosing. The representative need not be an attorney. The written designation of a representative(s) shall be filed with the Hearing Officer at or prior to the time of representation.

(d) **Hearing Findings and Determination.** The Hearing Officer shall, within fifteen (15) working days of the conclusion of the hearing, submit a written statement of decision, including the reasons for the decision by certified mail, return-receipt requested, to the park owner and the homeowners' representative. A copy of the statement of decision shall also be submitted to the Rent Review Officer. The Hearing Officer may allow the parties to submit briefs or additional information; however, any such submission shall not prolong the decision except upon the written waiver of the park owner. The Hearing Officer's decision shall determine the amount of rent increase, if any, and the effective date of the rent increase consistent with providing a fair and reasonable return on the involved park owner's investment. However, following a hearing on an advance authorization capital improvement rent increase notice, the rent increase shall not be allowed, and shall not be effective until, the capital improvement has been completed, and the park owner provides the notice required by subdivision (a) of section 540-2.1208.

(e) **Burden of Proof.** The burden of proof on rent increases shall be upon the park owner. The burden of proof on a petition seeking a decrease in space rent on account of a reduction in a park service without a concurrent decrease in space rent shall be upon the mobilehome owners.

(f) **Attorneys Fees.** This chapter makes no provision for attorneys fees and costs as between park owners and mobilehome owners with respect to any administrative proceeding regarding this chapter, including any appeal of any administrative decision made pursuant to this chapter. Except as expressly provided herein, under no circumstances shall any provision in this chapter be construed to allow either party to apply for or recover attorneys fees from the other in proceedings under this chapter.

(g) **Decision Final.** The decision of the Hearing Officer is final and binding upon the park owner and all affected mobilehome owners, regardless of whether any affected mobilehome owner signed the petition for a hearing or was present or represented at the hearing. The decision of the Hearing Officer shall be subject to judicial review pursuant to section 1094.5 of the Code of Civil Procedure.

The parties to the hearing may enter an agreement, which shall be signed by the Hearing Officer, that the decision of the Hearing Officer shall be final and binding upon all parties on the same basis as an arbitrator's decision subject to confirmation, correction or vacation, pursuant to section 1285 et seq. of the Code of Civil Procedure.

(h) **No decision.** If the Hearing Officer does not render and mail a decision within twenty (20) working days of the conclusion of the hearing, the requested rent increase shall be deemed granted for the period commencing the day after said 20th working day.

(Ords. 99-24, § 10; 95-53, § 2; 95-31, § 2.)

SECTION XI. Section 540-2.1002 of the County Ordinance Code is amended, to clarify that it applies only to hearings on major rent increases sought by the park owner, to read:

540-2.1002 Required information - Major rent increase. If a hearing is scheduled on a major rent increase proposed by the park owner, the park owner shall, under penalty of perjury, submit any and all information reasonably required by the Rent Review Officer, including, but not limited to the following:

- (a) The address of the mobilehome park;
 - (b) The space number of each mobilehome space for which a rent increase is requested;
 - (c) The current and proposed rent schedules for each mobilehome space in the mobilehome park, including the amount of the requested rent increase for each mobilehome space;
 - (d) The facts supporting the requested rent increase, including supporting documentation;
 - (e) The actual income and operating expenses by category for the mobilehome park for each year of a two year period ending no more than six months before the proposed effective date of the rent increase;
 - (f) A schedule of other anticipated fees and income from the mobilehome park;
 - (g) The vacancy rates in the mobilehome park during the preceding two year period;
 - (h) A list of any current leases for mobilehome spaces unaffected by the proposed rent increase extending beyond the effective date of the rent increase, showing the date that each lease expires and the amount and date of change in the space rent for such lease;
 - (i) Any other information affecting the need for the proposed rent increase which is required by the Rent Review Officer; and
 - (j) Any other information which the park owner deems relevant.
- (Ords. 99-24, § 11; 95-31, § 2.)

SECTION XII. Section 540-2.1004 is amended, by changing a reference to "housing service" to "park service," to read:

540-2.1004 Standards of review for major rent increase. (a) Factors.

Factors to be considered in evaluating a major rent increase proposed by the park owner include:

(1) Unavoidable increases in maintenance and operating expenses, including but not limited to the reasonable value of the park owner's labor and any increased costs for services provided by a public agency, public utility, or quasi-public agency or utility.

(2) The substantial rehabilitation or the addition of capital improvements by the park owner seeking the major rent increase, including the reasonable value of the park owner's labor, as long as such rehabilitation or improvement has been completed and is:

(A) Distinguished from ordinary repair or maintenance;

(B) For the primary benefit, use, and enjoyment of the affected mobilehome owners;

(C) Permanently fixed in place or relatively immobile and appropriated to the use of the mobilehome park;

(D) Not coin-operated nor one for which a "use fee" or other charge is imposed on affected mobilehome owners for their use; and

(E) Cost-factored and amortized over the remaining useful life of the rehabilitation or improvement.

(3) The rental history of the affected mobilehome spaces and the mobilehome park, for the immediately preceding thirty-six months, including:

(A) The presence or absence of past rent increases;

(B) The frequency of past rent increases; and

(C) The occupancy rate of the mobilehome park in comparison to comparable mobilehome parks in the same general area.

(4) The physical condition of the affected mobilehome spaces and mobilehome park, including the quantity and quality of maintenance and repairs

performed during the preceding twelve months, as well as the long term patterns of operating, maintenance, and capital improvement expenditures.

(5) Increases or reductions in park services since the last rent increase.

(6) Existing space rents for comparable mobilehome spaces in other comparable mobilehome parks.

(7) A decrease in net operating income as provided in section 540-2.1006.

(8) A fair return on the property prorated among the mobilehome spaces of the mobilehome park.

(9) Other financial information which the mobilehome park owner provides.

(10) Whether income or expenses in a base or comparison year are unreasonably high or low. If so, the Rent Review Officer may make an appropriate adjustment.

(b) No cap shall be placed on rent increases pursuant to this section. It is understood that a park owner is entitled to, and this chapter shall be construed and implemented to afford a park owner a fair and reasonable return on investment. (Ords. 99-24, § 12; 95-31, § 2.)

SECTION XIII. Section 540-2.1008 is added to the County Ordinance Code, to set forth the procedure and standards for a hearing to review a rent petition filed by affected mobilehome owners, due to an alleged reduction in service without a concurrent decrease in space rent, to read:

540-2.1008 Review of reduction in park service major rent increase.

(a) **Mobilehome owners' petition.** If a hearing is scheduled on a petition filed by mobilehome owners alleging that there has been a reduction in a park service without a concurrent decrease in space rent, the mobilehome owners' representative shall submit information to support the mobilehome owners' petition, including, but not limited to, the following:

(1) Evidence that the park service was provided by the park owner on or after September 24, 1994 and the level of the service provided;

(2) Evidence that the park service reduction or discontinuance was discovered no earlier than 180 days before the filing of the mobilehome owners' petition with the Clerk of the Board of Supervisors pursuant to section 540-2.804;

(3) Evidence of the cost savings realized by the park owner on or about the time the service was reduced or discontinued.

(b) **Park owner's rent increase notice.** If a hearing is held on a petition challenging the amount of a proposed decrease in space rent, or lack thereof, following a park owner's notice of a reduction in a park service, the park owner shall submit evidence to support the park owner's proposed space rent increase or other space rent action, including information described by subsection (3) of subdivision(a) of this section.

(c) **Limitations.** The park owner and the mobilehome owners' representative may submit any evidence to rebut the evidence submitted by the other. The hearing officer's consideration shall be limited to evidence on the park service that will be, has been, or alleged to have been reduced unless the park owner asserts that the decreasing the space rent by the value of the amount of the reduced park service will deprive the park owner a fair rate of return on investment. The park owner shall not be required to submit the information required by section 540-2.1002 unless the park owner asserts that a decrease in space rent should not be required because the current space rent is necessary to maintain a fair rate of return on the park owner's investment. (Ord. 99-24, § 13.)

SECTION XIV. Section 540-2.1208 of the County Ordinance Code is amended, to clarify that park owners obtaining prior approval for a capital improvement rent increase may recover only the actual cost of the capital improvement, which includes the actual interest costs, and to clarify the procedure to be followed by the park owner after the capital improvement is completed, to read:

540-2.1208 Effect of prior approval. (a) Approval pursuant to hearing. Where a park owner obtains prior approval for a capital improvement rent increase pursuant to a hearing, the park owner may make the improvements and is entitled to recover the pre-approved rent increase as set forth in this section. Upon the completion of the improvement, the park owner shall submit to the Rent Review Officer, documentation of the actual cost of the capital improvement, and the rent increase notice to be sent to the affected mobilehome residents, which notice shall specify the amount of the rent increase. The park owner may not commence collecting the increased rent until 30 days after providing said notice to the affected mobilehome owners.

If the total actual cost (which includes the actual interest cost) is less than the total pre-approved amount, only the costs actually incurred may be passed through to the mobilehome owners in their proportionate share, except that if the park owner does not borrow the funds to pay for the improvement, the park owner shall be entitled to receive interest on his funds at the rate of prime plus 2%.

If the total actual cost of the capital improvement is more than the total pre-approved amount, the park owner may waive the excess amount and, following provision of 30 days' notice, collect only the pre-approved amount. In the alternative, the park owner may provide a second notice of capital improvement rent increase for the full amount incurred, in which case the park owner shall comply with all requirements for a rent increase.

(b) Approval without petition. Where a park owner obtains prior approval for a capital improvement rent increase, which approval was not subject to a petition, the park owner is entitled to recover the pre-approved rent increase as set forth in this section. Upon completion of the capital improvement, the park owner shall submit to the Rent Review Officer, documentation of the actual cost of the capital improvement, and the rent increase adjustment (decrease) notice, if any, to be sent to the mobilehome owners.

If the total actual cost (which includes the actual interest cost) is less than the total pre-approved amount, only the costs actually incurred may be passed through to the mobilehome owners. If the total actual cost of the capital improvement is more than the total pre-approved amount, the park owner may waive the excess amount and continue collecting only the pre-approved amount. In the alternative, the park owner may provide a second notice of capital improvement rent increase for the full amount incurred, in which case the park owner shall comply with all requirements for a rent increase.

(Ords. 99-²⁴, § 14; 95-31, §2.)

SECTION XV. Section 540-2.1406 is amended, to change the reference to "housing service" to "park service," to read:

540-2.1406 Retaliation; mobilehome owners' right to organize. (a) No park owner, manager, or agent thereof may retaliate against a mobilehome owner for the mobilehome owner's assertion or exercise of rights under this ordinance, in any manner, including but not limited to: improperly threatening to bring or bringing an action to recover possession of a mobilehome space, engaging in any form of harassment; improperly decreasing park services; improperly increasing the space rent; or improperly imposing a security deposit or any other charge payable by a mobilehome owner.

(b) In an action by or against a mobilehome owner, evidence of the assertion or exercise by the mobilehome owner of rights under this chapter or other activity in furtherance of mobilehome owners' rights and organizations within six months prior to the alleged act of retaliation shall create a presumption affecting the burden of producing evidence that the park owner's conduct was in retaliation for the mobilehome owner's assertion or exercise of rights under this ordinance.

(c) To the extent allowed by law, any mobilehome owner whose rights under this chapter are violated may bring a civil action for declaratory, and/or injunction relief, and/or for damages.

To the extent allowed by law, any park owner who retaliates in violation of subsection (a) shall be liable to the affected mobile home owner in a civil action for the actual damages sustained, plus reasonable attorney's fees and costs. Although a park owners agent may be sued for declaratory and/or injunctive relief under this section, in no event may a mobilehome owner bring an action for damages against a park owner's agent or recover attorneys fees from the park owner's agent.
(Ords. 99-24, § 15, 95-31, § 2.)

SECTION XVI. Subdivision (b) of section 540-2.1408 is amended, to allow a park owner to provide a summary an information sheet in lieu of the entire ordinance, to read:

(b) Before any rental agreement or lease is excess of 12 months is executed by the mobilehome owner or prospective mobilehome owner, the park owner must (1) offer the mobilehome owner or prospective mobilehome owner the option of a rental agreement for a term of 12 months or less, (2) provide the mobilehome owner or prospective mobilehome owner with a copy of this ordinance or an information sheet briefly summarizing the ordinance, prepared by the Rent Review Officer, stating that the park is subject to this ordinance and that a copy of this ordinance may be obtained from the Rent Review Officer, and (3) inform the mobilehome owner or prospective mobilehome owner in writing that if he or she signs a lease or rental agreement with a term in excess of 12 months, the lease or rental agreement may not be subject to the terms and protection of this ordinance.
(Ords. 99-24, § 16, 95-31, § 2.)

SECTION XVII. SEVERABILITY. Chapter 540-2 of the County Ordinance Code shall be liberally construed to achieve its purposes and preserve its validity. If any provision or clause thereof, or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of Chapter 540-2 which can be given effect without the invalid provision or application, and to this end the provisions of Chapter 540-2 are declared to be severable and are intended to have independent validity.

SECTION XVIII. PREEMPTION. Nothing in Chapter 540-2 is intended, and should not be deemed, to excuse or prevent compliance with any State or federal law. If any provision of Chapter 540-2 is found by a court of competent jurisdiction to be preempted by any applicable State or federal law, the Board of Supervisors declares that its intent is for such provision to be severable from the remainder thereof, and the remainder of Chapter 540-2 is to be given effect in accordance with the provisions of Section VIII of this ordinance.

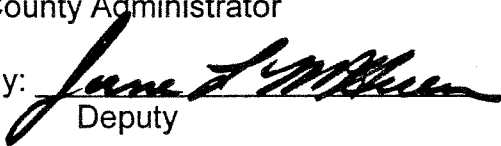
SECTION XIX. EFFECTIVE DATE. This ordinance becomes effective 30 days after passage, and within 15 days after passage shall be published once with the names of the Supervisors voting for and against it in the Contra Costa Times, a newspaper published in this County.

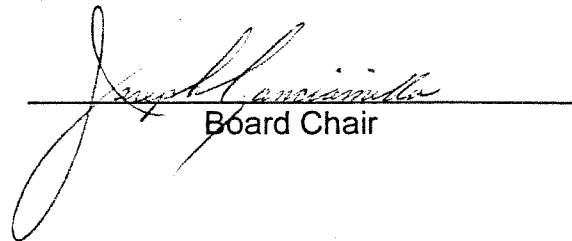
PASSED on JUNE 8, 1999, by the following vote.

AYES: SUPERVISORS GIOIA, UILKEMA, GERBER and CANCIAMILLA
NOES: NONE
ABSENT: SUPERVISOR DESAULNIER
ABSTAIN: NONE

ATTEST: Phil Batchelor, Clerk
of the Board of Supervisors and
County Administrator

By:


Deputy


Board Chair

H:\LFUJ\DOCS\MOBILEHO\ORD\fin51899.wpd

[SEAL]

